IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

1. CRIMINAL WRIT PETITION NO.1105 OF 2006

Vikrant Shah, .. Petitioner.
Vs
Milind Mohan Vadanagekar
and ors. .. Respondents.

Mr S.V.Sadavarte, for the petitioner.
Mrs M.H.Mhatre, APP for the respondent-State.

WITH

2. CRIMINAL WRIT PETITION NO.1106 OF 2006

Vikrant Shah, .. Petitioner.
Vs
Milind Mohan Vadanagekar
and ors. .. Respondents.

Mr S.V.Sadavarte, for the petitioner.
Mr. P.A.Pol, APP for the respondent-State.

WITH

3. CRIMINAL WRIT PETITION NO.1107 OF 2006

Vikrant Shah, .. Petitioner.
Vs
Milind Mohan Vadanagekar
and ors. .. Respondents.

Mr S.V.Sadavarte, for the petitioner.
Mrs M.M.Deshmukh, APP for the respondent-State.

WITH

4. CRIMINAL WRIT PETITION NO.1108 OF 2006

Vikrant Shah, .. Petitioner.
Vs
Milind Mohan Vadanagekar
and ors. .. Respondents.

Mr S.V.Sadavarte, for the petitioner.
Mr R.Y.Mirza, APP for the respondent-State.

WITH

5. CRIMINAL WRIT PETITION NO.1109 OF 2006

Vikrant Shah, .. Petitioner.
Vs
Milind Mohan Vadanagekar
and ors. .. Respondents.

Mr S.V.Sadavarte, for the petitioner.
Mr A.S.Shitole, APP for the respondent-State.

WITH

6. CRIMINAL WRIT PETITION NO.1110 OF 2006

Vikrant Shah, .. Petitioner.
Vs
Milind Mohan Vadanagekar
and ors. .. Respondents.

Mr S.V.Sadavarte, for the petitioner.
Mrs M.H.Mhatre, APP for the respondent-State.

WITH

7. CRIMINAL WRIT PETITION NO.1111 OF 2006

Vikrant Shah, .. Petitioner.
Vs
Milind Mohan Vadanagekar
and ors. .. Respondents.

Mr S.V.Sadavarte, for the petitioner.
Mrs M.M.Deshmukh, APP for the respondent-State.

CORAM : D.B.BHOSALE, J.

DATED : 10th August, 2006

P.C.:

1. Heard the learned counsel for the parties.

2. The petitioner, who is common in all the petitions, has impugned the similar orders rendered by the Sessions Court by which his revision applications against the orders "issue process" passed by the Magistrate in the complaints filed by the respondent-complainant under section 138 of Negotiable

Instruments Act, have been dismissed. The challenge to the order of issuance of process was solely on the ground that the cheques in question were issued by only accused no.3-Sanjay Shah in his personal capacity and as Proprietor of M/s Sanjay Shah & Associates. I perused the judgment and other material placed before me. There is no dispute that the petitioner and Sanjay Shah are the partners of M/s Sanjay Enterprises and they both were partners of the said firm on the date when the offence was committed. The complainant had paid an amount of Rs.14,35,000 to M/s Sanjay Enterprises as part payment towards booking of office premises in a building which the said partnership was to construct. Since the construction of the said commercial building was not materialised, the aforesaid amount was refunded by different cheques to the complainant. All the cheques were, however, dishonoured and hence the complaints were filed against the applicant, Sanjay Shah & their firm M/s Sanjay Enterprises. The questions, whether Sanjay Shah and Associates is sister concern of Sanjay Enterprises?; whether the cheques were issued in discharge of legally enforceable liability of Sanjay Enterprises?; what was the connection of the partnership firm and the said proprietary concern?; whether the petitioner has any connection with the transaction or it was a personal transaction between

Sanjay Shah and the complainant as claimed by the petitioner?, could be considered only during trial. Prima facie, it is very clear that the cheques were issued in discharge of the liability of Sanjay Enterprises of which the petitioner and Sanjay Shah are the partners. In the circumstances, I find absolutely no merits in these petitions. However, it is open for the petitioners to rebut the presumption of law during trial and for that purpose all the contentions in the writ petitions are left open. These writ petitions are accordingly dismissed.

3. It is needless to express that the trial Court shall decide the cases on merits in accordance with law and uninfluenced by the observations made in this order as also in the orders passed by the Sessions Court in revisions.

(D.B.BHOSALE,J.)